

COMMONWEALTH OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES

AGING AND OLDER ADULT SERVICES  
COMMITTEE HEARING

STATE CAPITOL  
RYAN OFFICE BUILDING  
ROOM 205  
HARRISBURG, PENNSYLVANIA

TUESDAY, MAY 6, 2008, 9:09 A.M.

PRESENTATION ON HOUSE BILL 1952  
CARE FACILITY CARBON MONOXIDE DETECTOR ACT

BEFORE :

HONORABLE PHYLLIS MUNDY, MAJORITY CHAIRMAN  
HONORABLE TIM F. HENNESSEY, MINORITY CHAIRMAN  
HONORABLE KAREN BOBACK  
HONORABLE MICHELE BROOKS  
HONORABLE MARTIN T. CAUSER  
HONORABLE JIM COX  
HONORABLE EUGENE A. DePASQUALE  
HONORABLE JOHN T. GALLOWAY  
HONORABLE DAVID KESSLER  
HONORABLE STEVE SAMUELSON  
HONORABLE FRANK SHIMKUS  
HONORABLE KEN SMITH  
HONORABLE ROSEMARIE SWANGER  
HONORABLE RANDY VULAKOVICH  
HONORABLE KATHARINE M. WATSON  
HONORABLE JEWELL WILLIAMS

IN ATTENDANCE :

HONORABLE MARK T. MUSTIO

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ALSO PRESENT:

CHARLES W. QUINNAN  
MAJORITY EXECUTIVE DIRECTOR

ALICIA E. RIEGEL-KANTH  
MAJORITY RESEARCH ANALYST

LOUISE F. STEPANIC  
MAJORITY LEGISLATIVE ASSISTANT

SHARON E. SCHWARTZ  
MINORITY EXECUTIVE DIRECTOR

JEAN M. DAVIS, REPORTER  
NOTARY PUBLIC

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1           CHAIRMAN MUNDY: Ladies and gentlemen, we are  
2 going to begin the hearing.

3           We are having problems with our microphones,  
4 and workmen will be coming in and out to try to  
5 adjust and turn them on. So we are just going to  
6 have to speak up for our stenographer and so that  
7 everyone in the audience can hear what is being said  
8 until they get fixed.

9           The topic of today's hearing is House Bill  
10 1952, Representative Watson's bill, and I'm going to  
11 turn the mike over to her -- or lack of a mike over  
12 to her -- to talk about her bill and the reasons for  
13 introducing it.

14           Representative Watson.

15           REPRESENTATIVE WATSON: Thank you, Madam  
16 Chairman.

17           And first let me begin, ladies and gentlemen,  
18 by thanking Chairman Mundy and Chairman Hennessey for  
19 bringing this bill up for discussion and  
20 consideration.

21           Let me say from the outset that I am  
22 certainly amenable. I am listed as the prime  
23 sponsor, but I should recognize Representative Mark  
24 Mustio. I would really want to say that we are  
25 co-primes. I know that is not a usual term for us

1 in Harrisburg.

2 But Mark has a constituent, and you will hear  
3 from her, and I have a constituent, and these are  
4 family members of really the latest victims of carbon  
5 monoxide poisoning.

6 And indeed it was my friend, Mary Smithson,  
7 who called me and brought all this to my attention, I  
8 guess over a year ago. And, quite frankly, I said to  
9 someone, I said, for a Presbyterian lady who grew up  
10 in a Catholic neighborhood, I do understand what the  
11 Catholic church teaches about sins of omission and  
12 commission.

13 I would suggest to you that what we have here  
14 with not really referencing carbon monoxide detectors  
15 in facilities where we look after and support those  
16 who are perhaps elderly and perhaps frail indeed was  
17 purely just a sin of omission, nothing deliberate.

18 When I spoke to providers in my area and  
19 asked them about it, some actually had them and  
20 others said, oh, good idea. And when indeed I talked  
21 to friends and neighbors and said, are you aware,  
22 they said, no; I guess I just assumed that they were  
23 there.

24 Both Representative Mustio and I are amenable  
25 to whatever it takes to fix the bill, if that is the

1 determination of some of our testifiers, and we would  
2 agree, but I think I speak for Representative Mustio,  
3 though I don't usually do that, stating what we  
4 want.

5           We want this to be done. We want to know and  
6 families to know that when they have folks in  
7 personal-care homes, nursing homes, and  
8 assisted-living facilities throughout Pennsylvania,  
9 they can continue to be assured that their loved one  
10 is in the best place possible where they will receive  
11 the best of care.

12           And I say that because I have always believed  
13 that for the most part, that is exactly what happens.  
14 I visit them in my district, and I am well aware of  
15 the fine job that they do.

16           Thank you, Chairman Mundy.

17           CHAIRMAN MUNDY: Thank you, Representative  
18 Watson.

19           Our first testifiers are the family members  
20 referred to by Representative Watson -- Mary Ann  
21 Rose, a resident of Moon Township, and Mary Smithson,  
22 a resident of New Hope.

23           Would you please come forward and take seats  
24 there, and make sure that you speak up, please, for  
25 our stenographer and for the audience.

1 MS. ROSE: Good morning.

2 Honorable Chairman Mundy and distinguished  
3 members of the Committee on Aging and Older Adult  
4 Services, I want to thank you for agreeing to listen  
5 to my testimony regarding House Bill 1952.

6 I also want to thank the members of the  
7 General Assembly of the State of Pennsylvania who  
8 introduced and referred this vital legislation to  
9 this committee.

10 CHAIRMAN MUNDY: If you could excuse me for  
11 one moment. Would you identify yourself for the  
12 stenographer, please?

13 MS. ROSE: I am Mary Ann Rose.

14 Finally, I would personally like to thank  
15 Representative Mark Mustio, who took the time to  
16 listen to my story and worked to develop this  
17 legislation.

18 I have prepared written comments for you, but  
19 due to time restraints, I will highlight the key  
20 points of my testimony.

21 Passage of this legislation has become a  
22 very personal crusade for me and my family because  
23 of a preventable tragedy that occurred that led to  
24 the deaths of my parents, David and Regina  
25 Householder.

1           My objective is simple, ladies and gentlemen:  
2 to do all I can do to enable legislation that will  
3 prevent the needless deaths of elderly Pennsylvanians  
4 due to the lack of carbon monoxide detection systems  
5 in facilities with care-dependent individuals.

6           My mom and dad were married for 62 years. It  
7 was their desire to maintain their total  
8 independence, and they both decided to remain  
9 self-sufficient and in their home. But circumstances  
10 occurring in the fall of 2006 led me to pursue and  
11 eventually place my parents in an assisted-living  
12 center.

13           The facility had been granted full  
14 accreditation by the Department of Public Welfare.  
15 Although the facility was older, I felt confident  
16 that my parents would be safe, since it was a fully  
17 accredited facility.

18           Everything was going well until the morning  
19 of February 21 of 2007, when I received a call at  
20 about 8 o'clock at my place of employment from an  
21 aide at the assisted-living facility.

22           She advised me that both of my parents had  
23 been found unconscious and unresponsive in their  
24 beds. The aide went into the suite when neither my  
25 mom or dad appeared for breakfast that morning.



1           I questioned the aide as to the reason for  
2 their condition and if she knew what had happened,  
3 but she did not have any knowledge. The aide advised  
4 me that both of my parents had been taken to the  
5 emergency department of the local hospital.

6           My husband and I arrived at the hospital at  
7 approximately 9:30 a.m. to find both of my parents in  
8 extremely critical condition but were not given any  
9 reasons for their condition.

10           At approximately 10:30 that morning, the  
11 hospital was notified that the assisted-living  
12 facility was being checked for carbon monoxide  
13 poisoning.

14           The physician caring for my parents  
15 immediately ran carbon monoxide tests on my parents.  
16 The levels for both my mom and dad were extremely  
17 high. Tests also revealed that both of my parents  
18 had suffered heart attacks, which is common for  
19 patients that suffer high levels of carbon monoxide  
20 poisoning.

21           My husband and I were advised that the  
22 carbon monoxide levels experienced in my parents were  
23 life threatening and they may not survive.

24           Later that day, my husband and I returned to  
25 the assisted-living center to obtain some personal

1 articles for my parents. We were met by facility  
2 staff, and I questioned them as to how this could  
3 have happened and asked, were there not carbon  
4 monoxide detectors in this facility? It was at that  
5 time that my husband and I were advised that carbon  
6 monoxide detectors was not a requirement in the  
7 Department of Welfare regulations.

8           Incidentally, the DPW staff was on site that  
9 day conducting their routine review. The DPW  
10 officials saw the ambulances and the fire department  
11 and began to question staff as to what was happening.

12           At some point during our visit that day, when  
13 we were leaving, we were advised that carbon monoxide  
14 detectors had already been placed into that facility  
15 in all the residents' rooms, probably at the  
16 direction of the DPW officials, and eventually that  
17 facility had their carbon monoxide detection system  
18 directly wired into their fire alarm system.

19           On March 7 of 2007, my dad passed away from  
20 the effects of the carbon monoxide poisoning. At the  
21 same time, my mother was showing increasingly severe  
22 symptoms from the exposure to the carbon monoxide.  
23 Her oxygen requirements were steadily increasing, and  
24 she never required oxygen previously. She was  
25 becoming increasingly confused, losing her fine motor

1 control, her ability to swallow, and was beginning to  
2 have Parkinson's-like symptoms and personality  
3 changes. These symptoms are all known to be side  
4 effects of severe carbon monoxide poisoning.

5 Mom suffered significantly from the effects  
6 of the poisoning. She was too ill to attend my dad's  
7 viewing or funeral, and she herself lapsed into a  
8 coma on March 13 and passed away on March 14.

9 Ladies and gentlemen, it is unclear to me how  
10 many residents of the assisted-living facility were  
11 taken to area hospitals, but the emergency department  
12 physician did advise me that his facility was in the  
13 disaster mode, as was another facility in the area,  
14 as they were expecting multiple patients.

15 This assisted-living center had 100 to  
16 125 residents, so this incident had the potential to  
17 become a much larger tragedy. It's a miracle that  
18 other residents were not affected more severely from  
19 the carbon monoxide exposure.

20 I later learned my parents were the most  
21 severely affected because of a faulty boiler that was  
22 directly under their rooms. Consequently, they  
23 suffered the highest exposure to the carbon monoxide.

24 There are many older facilities in  
25 Pennsylvania such as the facility in which my parents

1 resided. Many of these facilities are privately  
2 owned and have older heating systems that increase  
3 the potential for carbon monoxide exposure.

4 I would not want any other family to suffer  
5 through a tragedy such as my family experienced. If  
6 the owners of these facilities are not required by  
7 State regulation to have carbon monoxide detection  
8 systems, whether it is individual detectors placed in  
9 the residents' rooms or wired to a fire alarm system,  
10 they will not install them.

11 I was able to read the fire department  
12 report, which the DPW provided me. The carbon  
13 monoxide levels in the hallway in the assisted-living  
14 center when they went in were 114. The report also  
15 indicated that a carbon monoxide detector would have  
16 alarmed at 35, so this was extreme.

17 Perhaps facility administrators believe the  
18 installation of carbon monoxide detectors represents  
19 an unaffordable added expense. I have seen  
20 single-resident carbon monoxide detectors being sold  
21 for \$25 to \$35. I believe the cost of carbon  
22 monoxide detection systems for facilities housing  
23 vulnerable dependent-care residents is a small price  
24 to pay for the safety of elderly citizens.

25 There are currently 12 States that require

1 carbon monoxide detection systems in dwellings. I  
2 have listed them in my testimony, and I have given  
3 Representative Watson a copy of that information.  
4 This information was updated in October of 2007.

5 Again, thank you very much, ladies and  
6 gentlemen of this committee, for allowing me to  
7 testify today on this very necessary legislation.  
8 Thank you.

9 CHAIRMAN MUNDY: Thank you.

10 I know I speak for all the committee members  
11 when I say we are very sorry for your loss.

12 MS. ROSE: Thank you.

13 CHAIRMAN MUNDY: You may proceed. Can you  
14 identify yourself for the stenographer?

15 MS. SMITHSON: Yes; good morning. My name is  
16 Mary Smithson.

17 Good morning, Honorable Chairman and  
18 distinguished members of the committee.

19 My name is Mary K. Smithson. I am a resident  
20 of Upper Makefield Township in Bucks County,  
21 Pennsylvania, and would like to express my personal  
22 appreciation to Representative Katharine Watson for  
23 all of her work in trying to bring attention to a  
24 matter of great public safety and concern.

25 I am also an elected official from Bucks

1 County, as I am Clerk of Courts of the Court of  
2 Common Pleas located in Doylestown, Pennsylvania.

3 Sitting next to me is my dad, William Kirwan.  
4 It is important for you to know what he is and what  
5 he represents to fully understand the devastation  
6 that has happened to our family and the result of  
7 the inadequate protection for residents in nursing  
8 homes.

9 My father was born in a small town called  
10 Girardville, Pennsylvania, in Schuylkill County. He  
11 was one of four children.

12 He left Schuylkill County in order to serve  
13 his country in World War II as an enlisted soldier in  
14 the United States Army.

15 After the war was over, my dad moved to  
16 Philadelphia, along with his sister, Regina, who  
17 married an Army officer named David Householder.

18 She and David moved to Pittsburgh and had two  
19 children, one of whom, Mary Ann Rose, is present here  
20 today for this hearing.

21 Despite the differences and the demands of  
22 our individual families, our family remained close  
23 and in contact with one other, and when Regina and  
24 David's health began to deteriorate in 2006, my  
25 father became gravely concerned.

1           We were shocked when we received the  
2 telephone call that a tragic accident had occurred to  
3 my Aunt Jean and Uncle Dave. That tragic accident  
4 was that they had been overcome by carbon monoxide  
5 poisoning while they were patients in a nursing home.

6           We were devastated. How could this incident  
7 happen? Why did it happen to them? How could we  
8 help them?

9           My father and I both flew up to Pittsburgh  
10 to be with Aunt Jean and Uncle Dave in early  
11 March 2007.

12           I have a difficult time describing to the  
13 panel the effect of the poisoning on their persons.  
14 It was unbelievable. We are a very close family and  
15 tried desperately to find the words to give comfort  
16 to my cousin, my dad's niece Mary Ann, and her  
17 family.

18           When we kissed Aunt Jean and Uncle Dave  
19 good-bye, I prayed that it would not be the last time  
20 we would visit with them. I was wrong.

21           The next time would be at their funeral.  
22 Yes, they both tragically died within a week of each  
23 other. Our family tried to fly out for the service  
24 and found ourselves waiting 5 hours on a tarmac for  
25 our plane to de-ice.

1           Needless to say, we missed the funeral  
2 service, and yes, our final good-byes.

3           This had an effect on all of us. Just a few  
4 months later, my dad suffered a small mini-stroke, so  
5 emotionally upset over the death of his beloved  
6 sister and her husband.

7           Aunt Jean and Uncle Dave died as a result of  
8 their exposure to the carbon monoxide poisoning while  
9 they were patients in a State-approved and monitored  
10 nursing facility.

11           I anguished afterwards, how could this  
12 happen? What can I do to stop this from ever  
13 happening to another family such as ours? Why aren't  
14 carbon monoxide detectors placed as a regulation in  
15 facilities where our elderly population is being  
16 cared for?

17           I am shocked that carbon monoxide detectors  
18 are not mandatory. How can this be?

19           After my anger subsided, I decided to take  
20 action to try to prevent another family from  
21 undergoing the intense grief we are still feeling.

22           I first contacted my Legislator, Scott Petri,  
23 who immediately put me in contact with State  
24 Representative Katharine Watson. She heard my story  
25 and told me she would work on a House Bill.



1 Right in front of me is a First Alert  
2 carbon monoxide detector. I purchased it for less  
3 than \$27 at Costco. In bold print on the front,  
4 these words state, "Protect your family from the  
5 #1 cause of accidental death poisoning in the United  
6 States. It's an invisible, tasteless, odorless gas  
7 which can cause illness or death in as few as  
8 15 minutes."

9 A carbon monoxide detector costs less than  
10 double cheeseburgers with french fries and a soda.  
11 Actually, it costs pennies, yet it can and does save  
12 lives.

13 It is too late for Aunt Jean and Uncle Dave,  
14 but with our large and growing aging population in  
15 Pennsylvania, it is right, it is proper, and it is  
16 our moral duty to become proactive in safeguarding  
17 and protecting our mothers, our fathers, our  
18 brothers, our sisters, who may become victims to this  
19 insidious poison. This device, which is very  
20 inexpensive, can save a life.

21 I ask this panel, shouldn't this great  
22 Commonwealth of the State of Pennsylvania be a  
23 leader, be proactive in saving lives? And if not, I  
24 beg you, why not?

25 I urge you to vote this proposed House Bill

1 1952 out of committee unanimously in order to save  
2 the lives of the faces whom we may or may not know.

3 Thank you for your attention.

4 CHAIRMAN MUNDY: Thank you for your  
5 testimony. And again, we're very sorry for your  
6 loss.

7 Do the committee members have any questions?  
8 Representative Hennessey.

9 REPRESENTATIVE HENNESSEY: I do. Thank you,  
10 Madam Chairman.

11 Ms. Rose and Ms. Smithson, you both have  
12 described deaths which occurred in remarkably  
13 different ways. Your parents died suddenly by a  
14 large dose of carbon monoxide, but I gather that your  
15 aunt and uncle died from---

16 MS. SMITHSON: We're relatives.

17 MS. ROSE: Yes.

18 REPRESENTATIVE HENNESSEY: Oh, I'm sorry.

19 MS. SMITHSON: Yes; she's my cousin.

20 REPRESENTATIVE HENNESSEY: Well, then  
21 they were farther away, so they didn't get the  
22 exposure?

23 MS. ROSE: No, it was my parents.

24 MS. SMITHSON: It's her parents. It's my  
25 aunt and uncle. This was my father's sister.

1           REPRESENTATIVE HENNESSEY: All right. Thank  
2 you. I don't have any more questions.

3           CHAIRMAN MUNDY: Do any other members of the  
4 committee have questions?

5           Thank you very much for being here this  
6 morning. We appreciate your testimony.

7           MS. ROSE: Thank you.

8           MS. SMITHSON: Thank you.

9           CHAIRMAN MUNDY: Next on the agenda is  
10 M.L. Wernecke, Policy Director for the Department of  
11 Public Welfare.

12           DIRECTOR WERNECKE: Good morning,  
13 Representative Mundy, Representative Hennessey,  
14 committee members, and staff.

15           My name is M.L. Wernecke, and I am the Policy  
16 Director at the Department of Public Welfare.

17           Sitting here with me today are Neil Cashman,  
18 Director of the Office of Legislative Affairs of the  
19 Department of Labor and Industry; Brent Ennis,  
20 Director of the Office of Legislative Affairs,  
21 Department of Health; and Tom Fidler, Deputy  
22 Secretary for Waste, Air and Radiation Management,  
23 the Department of Environmental Protection.

24           We are here as a panel because House Bill  
25 1952, the Care Facility Carbon Monoxide Detector Act,

1 directly or indirectly affects each of our agencies.  
2 We have jointly prepared this testimony and are  
3 prepared to answer your questions as they pertain to  
4 our individual agencies.

5 All of the State agencies represented on this  
6 panel are committed to ensuring the health and safety  
7 of residents of nursing homes, personal-care homes,  
8 and assisted-living facilities and are supportive of  
9 the intent of House Bill 1952.

10 For obvious reasons, we all would like to  
11 eliminate illness or death related to carbon monoxide  
12 poisoning, and I would like to pause for a moment and  
13 also extend my condolences to Ms. Rose and Ms.  
14 Smithson and their families for the stories they  
15 related. I thought it was compelling and certainly  
16 is something that everybody would want to try to  
17 prevent or eliminate, that illness or death related  
18 to carbon monoxide poisoning. The question before us  
19 today is, how can we most effectively achieve that  
20 goal?

21 House Bill 1952 requires assisted-living  
22 residences, personal-care homes, and nursing homes to  
23 have carbon monoxide detectors. The number and  
24 placement of the detectors shall be determined by the  
25 Departments of Health and Public Welfare in their

1    respective facilities and made enforceable through  
2    regulations promulgated by those agencies.

3           The bill also allows that the Departments of  
4    Health and Public Welfare can grant exceptions if  
5    they determine that no potential carbon monoxide  
6    hazard exists in individual facilities.

7           The Department of Health and the Department  
8    of Public Welfare are responsible for inspecting and  
9    licensing the facilities covered by House Bill 1952.

10          The Department of Health is responsible for  
11   licensing, inspections, and regulations relevant to  
12   the health and safety of Pennsylvania nursing  
13   facilities.

14          All Pennsylvania nursing facilities must  
15   comply with the Department of Health's health and  
16   safety standards. Current regulations do not require  
17   nursing facilities to be equipped with carbon  
18   monoxide detectors.

19          Personal-care homes are licensed and  
20   inspected by the Department of Public Welfare.  
21   Current DPW regulations at 55 PA Code Chapter 2600  
22   governing personal-care homes contain no requirements  
23   regarding carbon monoxide detectors.

24          Assisted-living regulations are currently  
25   under development. Act 56 of July 25, 2007, gave the

1 DPW the authority to promulgate regulations and  
2 establish requirements for the licensing and  
3 inspection of assisted-living residences. A work  
4 group has been meeting for the better part of a year  
5 and drafted regulations, and a preliminary draft will  
6 be released in the coming weeks.

7           If House Bill 1952 becomes law, the  
8 Department of Health and the Department of Public  
9 Welfare would add carbon monoxide detectors to their  
10 regular inspections and licensing visits.

11           Inspection and enforcement is not at issue.  
12 Both agencies do have an issue, however, with their  
13 ability to establish appropriate standards for the  
14 use and placement of carbon monoxide detectors.

15           While we all can agree that we don't want  
16 people to be overcome by carbon monoxide fumes, the  
17 fact of the matter is that there are no commonly  
18 accepted standards governing the use of carbon  
19 monoxide detectors.

20           Minimum requirements for the use of safety  
21 equipment such as carbon monoxide detectors are  
22 typically found in governing building codes.

23           The administration and enforcement of the  
24 Uniform Construction Code falls almost exclusively  
25 with municipalities, with 91 percent of

1 Pennsylvania's 2,563 municipalities having this  
2 responsibility. The other 9 percent of  
3 municipalities have the Department of Labor and  
4 Industry administer and enforce the code.

5 By regulation, the code requirements  
6 currently adopted for use are those found in the 2006  
7 family of codes published by the International Code  
8 Council. New ICC codes are published every 3 years.

9 The current codes do not require the  
10 installation of carbon monoxide detectors in any  
11 buildings or structures, new or existing. In  
12 May 2007, the ICC considered adding a requirement for  
13 the installation of carbon monoxide detectors in all  
14 one- and two-family dwellings where fuel-burning  
15 appliances are used.

16 Consistent with past ICC findings, the  
17 mandate was voted down, primarily because of concerns  
18 about the reliability of the detectors and  
19 conflicting views about their placement.

20 The effect of this latest decision is that,  
21 at the very earliest, the UCC will not have any  
22 carbon monoxide detector requirement in place before  
23 2013. In order to meet this date, the ICC would have  
24 to propose, approve, and incorporate such a  
25 requirement in the year 2012 family of codes.

1           Given the latest ICC actions on carbon  
2 monoxide detectors, there will not be specific  
3 national code requirements for the detectors to serve  
4 as a guide.

5           Absent a national standard, we looked at  
6 other States to determine if there are any generally  
7 accepted practices already in place. The National  
8 Conference for State Legislatures conducted a survey  
9 of "Carbon Monoxide Detectors State Statutes."

10           According to this survey, which was last  
11 updated in 2007, a total of 12 States have some form  
12 of a State statute regarding carbon monoxide  
13 detectors. Most of these apply to single-family  
14 residences, although some have specific provisions  
15 covering apartment buildings, dormitories, and  
16 rooming houses.

17           The scope, standards, and technical  
18 provisions of these statutes vary from State to  
19 State.

20           One consideration is whether the standards  
21 should apply to new construction only or to all  
22 buildings. States have adopted different approaches.

23           Connecticut requires the installation of  
24 carbon monoxide detectors in new residential  
25 buildings meant to be occupied by one or



1 two families.

2 Florida's statute covers new construction and  
3 buildings for which a building permit is issued.

4 Other States cover all buildings. The  
5 decision whether to limit the requirement to new  
6 construction or cover all buildings will affect the  
7 cost of implementation.

8 Another key consideration is who should  
9 establish the standards for the number and placement  
10 of detectors.

11 Illinois established a specific standard in  
12 State law by requiring that each dwelling unit shall  
13 be equipped with at least one approved carbon  
14 monoxide alarm in operating condition within 15 feet  
15 of every room used for sleeping purposes.

16 New York, on the other hand, requires the  
17 New York Fire Prevention and Building Code to adopt  
18 standards for the installation of carbon monoxide  
19 detectors.

20 Rhode Island requires "reasonable standards"  
21 to be incorporated in the Rhode Island Fire Safety  
22 Code.

23 It is worth noting that no other State  
24 charges their State health and human services  
25 agencies with the responsibility of establishing

1 technical standards for the installation and  
2 placement of carbon monoxide detectors.

3 Finally, there is also no consensus around  
4 the minimum technical requirements needed to protect  
5 health and safety.

6 Minnesota adopted a relatively high standard  
7 of one detector within 10 feet of each room used for  
8 sleeping.

9 Vermont requires one or more detectors per  
10 building in accordance with the manufacturer's  
11 instructions. As an aside, the Vermont statute does  
12 not require the owner or occupant of a single-family  
13 dwelling unit to maintain a detector after  
14 installation.

15 If Pennsylvania joins these 12 States by  
16 adopting requirements for carbon monoxide detectors,  
17 we need to be sure we get them right. There will be  
18 pressures on both sides advocating either a tougher  
19 or more flexible standard.

20 If we end up with a standard that is too  
21 weak, we will not achieve our goal of protecting  
22 residents of nursing facilities, personal-care homes,  
23 and assisted-living residences. If, on the other  
24 hand, we adopt rules and standards that are  
25 unnecessarily stringent, the owners and operators of

1 these facilities will bear the costs.

2 As currently written, House Bill 1952  
3 requires the Departments of Public Welfare and Health  
4 to establish standards in a technical area where  
5 there is no consensus in practice and where the  
6 International Construction Code Committee has  
7 declined to adopt standards due to the uncertainty  
8 about the reliability of detectors and conflicting  
9 views about their placement.

10 Neither department has the technical  
11 expertise to establish standards in this relatively  
12 new area, and we recommend that the responsibility  
13 for establishing standards be removed from these  
14 departments.

15 The Department of Health would like to  
16 further state that it is committed to ensuring the  
17 health and safety of nursing-home residents within  
18 the 725 nursing-care facilities in Pennsylvania and  
19 is supportive of the intent of House Bill 1952.

20 However, the current Life Safety Code for  
21 health-care facilities enforced by the department  
22 does not include carbon monoxide detectors. The  
23 department would have to establish independent  
24 standards due to the lack of national standards in  
25 this area.

1           Health would also recommend amending  
2 House Bill 1952 to allow for nursing-care enforcement  
3 through the powers and penalties established in the  
4 Health Care Facilities Act as opposed to the specific  
5 administrative penalty defined in printer's number  
6 2710. This would remove limitations on the  
7 department's enforcement authority.

8           Similarly, the Department of Public Welfare  
9 recommends that the penalties section refer back to  
10 the Public Welfare Code for compliance issues  
11 involving personal-care homes and assisted-living  
12 residents.

13           House Bill 1952 also requires the Department  
14 of Environmental Protection to test and approve  
15 carbon monoxide detectors as complying with the  
16 Underwriters Laboratories Standard 2034 or its  
17 equivalent as approved by the department.

18           The Department of Environmental Protection's  
19 Bureau of Air Quality evaluates and measures carbon  
20 monoxide from stationary and outdoor ambient sources  
21 using measurement devices approved by the United  
22 States Environmental Protection Agency as Referenced  
23 Methods, which are established analytical procedures  
24 used to validate new proposed procedures.

25           The department does not measure indoor air

1 sources for contaminant levels or calibrate  
2 measurement devices used for such purposes.

3 Underwriters Laboratories Standard 2034 is a  
4 performance standard for the carbon monoxide detector  
5 and not a test measurement protocol. This standard  
6 stipulates for the monitor's manufacturer that the  
7 device must be able to measure defined levels of  
8 carbon monoxide that provide a warning when the gas  
9 concentration levels reach a point that would cause a  
10 physical response in humans.

11 Due to the unavailability of devices to make  
12 such measurements, and because there is not an  
13 EPA-approved referenced method to test indoor carbon  
14 monoxide concentrations, the Department of  
15 Environmental Protection would be unable to test  
16 indoor monitors.

17 Further, for these reasons, the department  
18 currently does not have the technical expertise  
19 required to test or approve carbon monoxide detectors  
20 as being compliant with UL Standard 2034 or an  
21 equivalent standard.

22 On behalf of all the individuals and  
23 departments represented at this table, I would like  
24 to thank you for this opportunity to testify on House  
25 Bill 1952, and, members of the panel, we would be

1 happy to take your questions at this time.

2 CHAIRMAN MUNDY: Thank you.

3 I just have one overriding question. You  
4 know, I hear what you are saying. There are no  
5 national standards for the use and the placement of  
6 carbon monoxide detectors.

7 We have some of the best minds in  
8 Pennsylvania working in these four departments. What  
9 do you recommend that we do to protect people from  
10 this health threat?

11 DIRECTOR WERNECKE: Well, I think looking --  
12 and now I'm just speaking for myself and would ask  
13 other people to chime in -- but I thought in looking  
14 at what was happening in other States gives two basic  
15 options.

16 One is, if the best minds in Pennsylvania,  
17 which I would like to think reside in the Department  
18 of Public Welfare, perhaps not in this technical  
19 area, so what we would like to do is somehow have the  
20 best minds in Pennsylvania come up with what the  
21 standard would be, and I see two basic options.

22 Some States wrote it into the bill and said,  
23 every 10 feet was Minnesota and every 15 feet was  
24 Illinois. Other States had other metrics.

25 I didn't feel there was clarity what the

1 interval was -- one per room; one per floor; one per  
2 certain number of feet. So you could write it into  
3 the bill, if there could be a determination made.

4 The other alternative is to look to the  
5 buildings code people who may have more experience in  
6 this area. Other States said the buildings code  
7 people must adopt the standard. That would be  
8 another approach.

9 CHAIRMAN MUNDY: Can I ask the Department of  
10 Labor, who is, I guess, responsible to some degree  
11 for codes, building codes, what do you recommend?

12 DIRECTOR CASHMAN: Well, we could, the  
13 Department of Labor could establish a standard, but  
14 as M.L. said, what is that standard?

15 I think earlier, the earlier witness  
16 testified that her parents were affected because  
17 their room was closest to or right above the furnace.  
18 So, I mean, one question is now, the standard of  
19 10 feet from each sleeping area, so if we set 10 feet  
20 from each sleeping area, how did the carbon monoxide  
21 actually get into that room? You know, did it come  
22 in where the detector was, or did it come in on the  
23 other side of the room?

24 So I guess that is part of the question, why  
25 there has not been a set of standards, why this was

1 not included in the ICC codes, because you can maybe  
2 adopt something that you think is reasonable, but is  
3 it going to address the entire problem, you know,  
4 however the gas is escaping from the fuel-burning  
5 device. How it gets into that sleeping room is a  
6 bigger question. So I think that is probably one of  
7 the bigger issues.

8 We don't want to come up with something that  
9 we feel is adequate and then find out that it does  
10 not properly address the question. That is why I  
11 think the technical experts at the ICC have been  
12 reviewing this standard, and for whatever reason,  
13 they haven't adopted it yet.

14 But I think there are still a number of  
15 questions out there -- reliability of the devices. I  
16 have heard stories that there are a lot of false  
17 alarms on these devices, and, you know, I can't state  
18 for sure how reliable they are.

19 One of the standards is manufacturer's  
20 recommendations. You know, is that something that we  
21 go by, you know, if the manufacturers say one per  
22 sleeping unit?

23 So there are a bunch of questions out there  
24 that have to be answered. Could we adopt some type  
25 of standard? Yes, but, you know, as M.L. also said,



1 I think the best way to approach it would be to  
2 include those standards in the bill so that we don't  
3 have to go through a regulatory process of, you know,  
4 haggling for 18 months or more as to what the  
5 standards are going to be.

6 I think we have to get some technical people  
7 together and, if the bill is going to become law,  
8 identify what we feel is the most reasonable and put  
9 that standard into law rather than asking several  
10 different departments to come up with a standard.

11 Or even asking L&I, if we were to take it off  
12 of the regulatory agencies that have jurisdiction  
13 over those facilities, take it off of their shoulders  
14 and put it with L&I, but still let L&I work with the  
15 committee to identify the best possible standards for  
16 the bill.

17 And quite honestly, the bill mentioned  
18 something about a waiver where there was no threat of  
19 carbon monoxide. I think we would also want to be  
20 more specific there and say, not a waiver, so it  
21 looks like you can, you know, arbitrarily be left out  
22 of this standard. I think we would want to say that  
23 these devices are required where there are  
24 fuel-burning appliances in the facility.

25 That's another thing I think we should

1 tighten up in the bill if it is going to proceed.

2           Probably the best -- well, maybe not the  
3 best, but one of the other ones is the fact that  
4 these are fuel-burning devices and they malfunction.  
5 That is what causes the CO2.

6           So one of the other things is that we ought  
7 to be looking at those periodic inspections of those  
8 devices, that if it is a fossil-fuel-burning device  
9 that heats or somehow contributes to the heating of  
10 the water or providing heat for the unit, that's  
11 another thing that we ought to be looking at. You  
12 know, if the furnace doesn't malfunction, we don't  
13 have the leaking or the ventilation of the device.

14           CHAIRMAN MUNDY: That actually makes a lot of  
15 sense to me.

16           Obviously there is work we need to do on the  
17 bill, so with that, we thank you for that. That  
18 actually makes a lot of sense.

19           Representative Watson.

20           REPRESENTATIVE WATSON: Thank you, Madam  
21 Chairman.

22           Let me just say at the outset, as the prime  
23 sponsor, I would be happy to work with you.

24           When I was attempting to have the bill  
25 drafted and created, I actually contacted each of

1 your agencies, not you specifically, and some of the  
2 ideas I am hearing today, nobody presented and  
3 crafted.

4 Sir, I went to Labor and Industry first,  
5 because in my mind, I thought that is who should help  
6 me---

7 DIRECTOR CASHMAN: Well, come to me next  
8 time.

9 REPRESENTATIVE WATSON: ---and I didn't get  
10 any help. So I look forward to doing that.

11 I would suggest in one of your analogies,  
12 however, that in terms of, we try to be somewhat  
13 nonprescriptive in where the checkers would be placed  
14 for the simple reason, recognizing the layout  
15 structure would be different where the boiler would  
16 be located and all of that.

17 But I would suggest to you that when we say,  
18 well, there is no master plan, there is no master  
19 plan if we all use smoke detectors, and they are  
20 indeed required. And I have them in my house, and  
21 from my local municipality, they were certified.

22 But indeed somehow if a combustible fire  
23 begins in my attic, we are already in trouble when it  
24 comes from my attic finally to the second floor to  
25 the hallway. But if it starts by the kitchen or

1 whatever, we have it perfectly placed outside so it  
2 hits either the basement or the kitchen.

3 And in the township where I live, they are  
4 required by law to have them. So I'm not quite clear  
5 on, there's going to be one description, but I think  
6 we can devise.

7 I believe in your testimony you mentioned,  
8 and I'm sure we are going to hear from the folks who  
9 are talking about, well, we would wait for these  
10 national standards in perhaps 2013. This is 2008,  
11 and I am greatly afraid and would suggest to you that  
12 Pennsylvania should be better than that, than to wait  
13 5 years and worry about how many other people might  
14 indeed die.

15 And you might say, well, it has only been  
16 X number, and I would suggest to you that X number 1,  
17 2, 5, whatever it might be, is still far too many,  
18 and I will look forward to working with you then to  
19 work through this and actually put Pennsylvania in  
20 the forefront.

21 Thank you.

22 DIRECTOR CASHMAN: Representative, if I may  
23 go back to the standard of placement of the  
24 detectors.

25 I guess what I'm trying to say, to the extent

1 possible, if we aren't prescriptive in the bill, the  
2 regulatory process, as you are pretty much aware of,  
3 I'm sure, could draw out for a couple of years until  
4 the regulations are drafted, proposed, we go through  
5 the IRRC process and everything else.

6           So what I'm trying to suggest is that to the  
7 extent we can be prescriptive, if we can mention  
8 something to the effect of it is reasonable, and I  
9 think then, you know, a facility owner would have to  
10 weigh in, building code officials, local building  
11 code officials, technical experts, to the extent of a  
12 minimum standard of at least one per sleeping unit.

13           That's what I'm trying to get at, so that  
14 because there is no national standard, what can one  
15 detector handle? If you put it in a hallway, a  
16 common hallway, does it measure carbon monoxide that  
17 is 30 feet away or 60 feet away or 100 feet away?  
18 That is what I'm trying to get at.

19           The concentration is what -- I don't have  
20 that expertise, but I think we need to identify that,  
21 at least a minimum standard of what is acceptable.  
22 And, you know, I mentioned one per sleeping unit. I  
23 don't know if that is reasonable or not. Maybe it is  
24 too late to be in the sleeping unit, maybe it should  
25 be out in the common area, or somehow through an

1 engineering study that however the gas is escaping  
2 from this unit, where is the ventilation system for  
3 the escaping gas? Should it be located near those  
4 areas?

5           They are the types of technical questions I  
6 think we would have to address or at least look into  
7 to come up with some kind of reasonable standard.  
8 But if we would adopt some minimum standard in the  
9 bill to give us something to start with, so if the  
10 Legislature decides that they want to proceed with  
11 this and pass it, we can implement that requirement  
12 as soon as possible.

13           And also I would like, not to get too far out  
14 here, but I believe there is another bill -- forgive  
15 me; I don't recall who sponsored it -- but there is a  
16 similar bill in the House to do the same thing for  
17 hotel units, requiring CO2. And I guess that begs  
18 the question, do we really want to do this for only  
19 certain facilities, certain types of businesses? As  
20 M.L. mentioned, other States have requirements that  
21 they also be placed in residential units.

22           I mean, maybe the best way to approach this  
23 whole issue is to make it part of the UCC, not part  
24 of individual regulatory laws for certain types of  
25 facilities. But that is just, you know, I know they

1 raised the bill; I forget who sponsored this for  
2 hotels. But that may be another issue, that if the  
3 bill starts moving, you may see some movement to  
4 expand the requirement.

5 CHAIRMAN MUNDY: Other questions?

6 Chairman Hennessey.

7 REPRESENTATIVE HENNESSEY: Thank you,  
8 Phyllis.

9 Ms. Wernecke, does the Department of Welfare  
10 and the Department of Health track the number of  
11 deaths, accidental deaths, from carbon monoxide  
12 poisoning? Do we have any idea of the scope of the  
13 problem? How many people might have been victimized  
14 already?

15 DIRECTOR WERNECKE: Well, we certainly track  
16 deaths. I don't believe we tabulate by type of cause  
17 of death at that specific level, but it would be the  
18 kind of thing that, in reviewing records, we could  
19 come up with a number.

20 REPRESENTATIVE HENNESSEY: It would seem to  
21 me that we probably ought to know that. And  
22 certainly just by a recent review of the available  
23 records, we could find out if they were from carbon  
24 monoxide.

25 DIRECTOR WERNECKE: Sure. We can take a look

1 back over the last couple of years of records and  
2 come up with a number for you.

3 REPRESENTATIVE HENNESSEY: Would it be DPW  
4 that would do that?

5 DIRECTOR WERNECKE: For personal-care  
6 homes---

7 REPRESENTATIVE HENNESSEY: Okay.

8 DIRECTOR WERNECKE: ---which currently would  
9 also include what people are referring to as assisted  
10 living, because they are all licensed currently as  
11 personal-care homes. So what we will do is go back  
12 and look through personal-care-home deaths and see  
13 what we can come up with.

14 And maybe Brent would have---

15 REPRESENTATIVE HENNESSEY: Brent, can you get  
16 the Department of Health to do that for us as well  
17 for the homes under your jurisdictions?

18 DIRECTOR ENNIS: Yes, absolutely.

19 My understanding is there have been two  
20 occurrences whereas there have been C0 issues within  
21 nursing-care facilities. They did not result in  
22 fatalities.

23 CHAIRMAN MUNDY: Two occurrences---

24 DIRECTOR ENNIS: Over the last 5 years.

25 CHAIRMAN MUNDY: Over 5 years in nursing



1 homes.

2 DIRECTOR ENNIS: That is correct.

3 CHAIRMAN MUNDY: Okay.

4 REPRESENTATIVE HENNESSEY: But the other  
5 incidents where CO poisoning occurred did result in  
6 death? Did I hear you say that?

7 DIRECTOR ENNIS: No. The two incidents of  
8 CO<sub>2</sub>, CO problems within the facility, that did not  
9 result in any fatalities.

10 REPRESENTATIVE HENNESSEY: Thank you.

11 CHAIRMAN MUNDY: Representative Shimkus.

12 REPRESENTATIVE SHIMKUS: Thank you, Madam  
13 Chairman.

14 Mr. Cashman, you had made a statement that  
15 made me think of something.

16 About 25 years ago I bought an old house, and  
17 we were refinishing it, and when we worked on the  
18 furnace, the utility company came in and immediately  
19 shut everything down because there were no spill  
20 switches, which deal with CO, and I'm just wondering,  
21 are there any current standards for inspection of  
22 furnaces and chimneys in any of our facilities, or is  
23 that just left up to the facility?

24 DIRECTOR WERNECKE: Well, those would be  
25 inspected, for personal-care homes, the Department of

1 Public Welfare, and yes, the furnaces must be  
2 inspected, I believe it is annually, up to the  
3 manufacturer's standards. I'm not sure if there's a  
4 chimney rule, but I could look that up.

5 REPRESENTATIVE SHIMKUS: And also, you know,  
6 my general feeling is that this is an important piece  
7 of legislation, and I think something is better than  
8 nothing. And I wondered, has anybody consulted  
9 with firefighters and the International Association  
10 of Fire Fighters? I'm sure they have  
11 recommendations. They have recommended in my  
12 district, in my area, many times standards for carbon  
13 monoxide detectors.

14 I think that the science has advanced, and  
15 even though you are talking about, you know, the  
16 Uniform Construction Code, I think when you lose your  
17 parents, those technicalities are insignificant if  
18 you want to protect, you know, your loved ones, and  
19 so we have got to find something. Have we reached  
20 out to the firefighters?

21 DIRECTOR WERNECKE: I have not spoken to the  
22 firefighters. I look to the building codes and I  
23 look to other States.

24 REPRESENTATIVE SHIMKUS: Thank you,  
25 Madam Chairman.

1           CHAIRMAN MUNDY: I highly doubt that the  
2 firefighters would have done studies or have  
3 technical -- I mean, they might have anecdotes, but  
4 I don't know; it would be interesting to know.

5           Representative Shimkus, why don't you reach  
6 out to the firefighters and see if there is any  
7 information, technical or expert information,  
8 available through them? That would be helpful.

9           Representative Vulakovich.

10          REPRESENTATIVE VULAKOVICH: All governments  
11 are full of experts, so are there no experts that you  
12 guys have talked to about carbon monoxide detectors  
13 in preparation for the meeting? Did you talk to any  
14 experts in that field, or are there any that you know  
15 of other than just looking at what other States did?

16          And I am wondering, the other States, I mean,  
17 who did they speak to to come up with these  
18 regulations? And since they are all over the place,  
19 is there someone who is in the field who is really  
20 considered the expert, so to say? Do you guys know?

21          DIRECTOR WERNECKE: I think what we did, we  
22 met on the bill before there was really any notion  
23 that there would be a hearing. The four agencies got  
24 together and shared their information on this bill,  
25 the concern being about setting the standards.

1           I think the Departments of Health and Public  
2 Welfare, we are both fine about licensing and  
3 inspecting, but we don't feel within or own  
4 departments that we have the expertise to set the  
5 standards, and then we consulted with DEP and Labor  
6 and Industry as well, and here we are today.

7           So within the State government, I think that  
8 would be the process we used.

9           DEPUTY SECRETARY FIDLER: Let me just say  
10 that within the agencies, we have a significant  
11 amount of technical expertise with respect to  
12 monitoring ambient outdoor air contamination. We  
13 have very little jurisdiction or even expertise with  
14 respect to the devices that are normally installed or  
15 implemented in a household or institutional setting.

16           As a for instance, we have no jurisdiction or  
17 even experience in calibrating or approving standards  
18 for smoke detectors, yet we have an extensive  
19 monitoring network throughout the State to monitor  
20 particularly pollution, which really triggers smoke  
21 detectors inside the home.

22           But it is a very different, as was stated in  
23 the testimony, it is a very different analytical  
24 procedure. It is a very different referenced method  
25 that is basically approved by the department, the

1 Environmental Protection Agency at the Federal level.

2 So our expertise is there, but it is with  
3 respect to monitoring ambient air contamination from  
4 sources, large sources -- power-generating  
5 facilities, automobiles, that sort of thing.

6 We have very little expertise or even have  
7 knowledge as to how standards or performance criteria  
8 are even established for these small detection  
9 devices that are installed within indoor settings.

10 DIRECTOR CASHMAN: From the Department of  
11 Labor and Industry perspective, I guess you could say  
12 that we are the experts on the building codes. But  
13 the problem is that these technical requirements are  
14 not in the building code because that nationwide  
15 panel of experts, being, you know, engineers,  
16 architects, builders, code officials, that meet and  
17 determine the ICC codes every 3 years, they have not  
18 reached consensus as to what are the minimal  
19 acceptable standards. So that is why there is not a  
20 code in place for us to simply go out and enforce.

21 Absent that national standard, could we come  
22 up with a set of recommendations that we think would  
23 be reasonable? Yes, we could. The problem is, is  
24 everyone else going to think that they are  
25 reasonable?

1           So I guess that is why I'm saying if the bill  
2 is going to move forward, I think to best serve the  
3 regulated community and the residents of these homes  
4 that we try to address the issue in the bill, because  
5 I think that we are going to be met with opposition  
6 down the road.

7           Somebody is going to think, like M.L.  
8 mentioned, someone is going to say it is too strict,  
9 someone is going to be saying that it is not strict  
10 enough, and we sure don't want to give those families  
11 any false sense of security, that because a device is  
12 in the room that they think -- and again, we don't  
13 want to give the facility the false sense of security  
14 that because the device is there, that they don't  
15 have to do any other precautionary measures to make  
16 sure that the carbon monoxide doesn't start to begin  
17 with.

18           So that is all we are saying. I think we  
19 could come up with something, but there is nothing  
20 out there right now, because the national experts  
21 cannot agree on it yet.

22           REPRESENTATIVE VULAKOVICH: Yes, and I agree  
23 with you. I don't think, you know, that to set  
24 standards that are real strict without knowing  
25 everything that goes along with it is a good thing to

1 do. I think we do that too often.

2 But I think nobody wants to say that under  
3 circumstances like that, that we don't need some type  
4 of protection. I know that smoke travels  
5 differently, I guess, than carbon monoxide does.

6 I have been in the homes where we would  
7 respond, and you would come in and someone would get  
8 a headache and they are not feeling very well, and  
9 right away they suspect something. So the fire  
10 companies are called, the police are called and go in  
11 there, and they will take their little monitors  
12 around and they will check a certain part of the  
13 house and they you get a reading. You will go into  
14 other parts of the house and get nothing.

15 So I can see where that is a problem, that we  
16 just don't want to say put these all over the place  
17 and then find out that they are in the wrong place  
18 and they are not going to pick anything up.

19 But I'm wondering, is there anything that is  
20 done actually on the furnace area, because basically  
21 hot-water tanks and the furnace are the two  
22 contributing factors to this.

23 I guess the only way you can get away from  
24 something like that with exceptions is if the home is  
25 heated by electric or something like that. But other

1 than that, you are talking about fuel-burning  
2 instruments, and it seems to me there has to be some  
3 way we can go with this.

4           If someone looks at a furnace, for example,  
5 are there not companies out there that deal with  
6 putting something on furnaces and hot-water tanks  
7 that would measure some leakage or something like  
8 that? Do we know that?

9           The tank heats the hot water, and that is  
10 where it escapes from. We don't know exactly how it  
11 travels through the house. Is there anything like  
12 that where we can at least attack it from the  
13 standpoint of where it would initially come from?

14           DIRECTOR CASHMAN: I'm not aware about what  
15 you are saying. I'm not really versed in that area  
16 to really respond to say yes or no.

17           Later on, I think you have the Building Code  
18 officials who will be testifying. They may be able  
19 to provide that answer for you.

20           But also I think that part of the ventilation  
21 process from the fuel-burning device, you know, if it  
22 isn't coming from the source, it could be through the  
23 pipe that leads to the chimney or whatever.

24           REPRESENTATIVE VULAKOVICH: The chimney; yes.

25           DIRECTOR CASHMAN: Or the chimney could have,



1 you know, potentially cracks in the chimney where it  
2 escapes once it is up through. So it is not  
3 necessarily, while the source creates the gas, from  
4 the point that it is created if there is proper  
5 ventilation. If it escapes somewhere in between, it  
6 could create the hazard.

7 So that's the other issue. How do we place  
8 these detectors to make sure that we cover that route  
9 somehow, I guess, so to speak.

10 REPRESENTATIVE VULAKOVICH: And I know this  
11 sounds maybe a little simplified, but most of these  
12 deaths occur when someone is sleeping, because they  
13 just actually slip and it causes death. But usually  
14 when you are awake, you get the headache and you look  
15 flushed, so you know something is wrong. But when  
16 you are sleeping, that is when you don't recover. If  
17 anyplace, you put them over top of their beds so they  
18 measure where they are sleeping and whatever the  
19 reading would be.

20 DIRECTOR CASHMAN: And that is why I  
21 mentioned, Representative, what the reasonable  
22 standards say, one in every sleeping unit.

23 REPRESENTATIVE VULAKOVICH: Right.

24 DIRECTOR CASHMAN: But then what happens,  
25 again, with coverage of the device? I'm not versed

1 enough, but is it, you know, only good for 100 square  
2 feet, and what happens if the person is sitting in a  
3 recliner watching TV and falls asleep outside of that  
4 radius?

5 So again, we don't want to give anyone a  
6 false sense of security by your department's advice  
7 unless we know that what we are requiring actually is  
8 giving them the safety measure and what is required.

9 REPRESENTATIVE VULAKOVICH: Okay. Thank you.

10 CHAIRMAN MUNDY: Other questions?

11 Well, we are actually on time. Thank you  
12 very much for your testimony. We look forward to  
13 working with you as we continue our work on this  
14 bill. Thank you for being here.

15 DIRECTOR CASHMAN: Thank you. You're  
16 welcome.

17 CHAIRMAN MUNDY: Next we have Stuart Shapiro,  
18 President and CEO of the Pennsylvania Health Care  
19 Association, and Russell McDaid, the Vice President  
20 for Public Policy for the Pennsylvania Association of  
21 Non-Profit Homes for the Aging.

22 Thank you for joining us and being here. We  
23 will start with Dr. Shapiro.

24 DR. SHAPIRO: Good morning, Chairman Mundy,  
25 Chairman Hennessey, Representative Watson, and other

1 members of the committee.

2 I am Stuart Shapiro, but before I begin, I  
3 would just like to express our sympathy for the Rose  
4 family and the Smithson family.

5 My name is Stuart Shapiro, and I am President  
6 and CEO of the Pennsylvania Health Care Association,  
7 a statewide advocacy organization for the  
8 Commonwealth's elderly and disabled residents and  
9 their providers of care. Our mission is to ensure  
10 that those who need long-term care receive quality  
11 services in the most appropriate setting.

12 We are here today to testify on House Bill  
13 1952. In order to present you with the most  
14 thoughtful testimony we could, we gathered data, did  
15 research on this subject, and pulled together  
16 documents from the Centers for Disease Control, the  
17 U.S. Consumer Product Safety Commission, some medical  
18 journals, and some other sources. I am going to try  
19 to summarize some of them.

20 As you all know, carbon monoxide is a  
21 colorless, odorless, poisonous gas that results from  
22 the incomplete -- and I emphasize "incomplete" --  
23 combustion of fuels such as natural or liquified  
24 petroleum gas, kerosene, gasoline, oil, wood,  
25 charcoal, and other fuels.

1           Data on carbon monoxide poisoning in the  
2 United States is not very complete, unfortunately,  
3 because it is reportable, we believe, in only 13 of  
4 50 States.

5           But I'm going to give you some data that we  
6 were able to find, because I think it sheds a light  
7 on the whole debate that has been taking place.

8           Between 1999 and 2004, 75 percent of the  
9 deaths occurred in men. In Missouri, where it is  
10 reportable, it appears that over half of the carbon  
11 monoxide deaths between 2001 and 2007 were due to  
12 suicides.

13           Based on older data, and it is older data,  
14 from the Consumer Product Safety Commission, it  
15 appears that 75 percent of the non-auto-related  
16 deaths were caused by defective -- and I emphasize  
17 "defective" -- heating systems, primarily older  
18 systems, and poor maintenance. The same study, which  
19 I just found interesting, reported that 10 percent of  
20 carbon monoxide deaths were related to charcoal  
21 grills.

22           Deaths from carbon monoxide in the United  
23 States, according to the Consumer Product Safety  
24 Commission, dropped about 50 percent between 1982 and  
25 1997, when there were 180 deaths nationwide.

1           Given that heating systems have been  
2 improving, I would presume that the number of deaths  
3 has dropped further. Again, however, I want to  
4 caution that CO-related deaths are not reportable in  
5 75 percent of States, so finding and tracking  
6 comparable data is very difficult.

7           To me, the most important data available is  
8 that regarding the location of carbon monoxide  
9 deaths. The most recent data we have is from the  
10 U.S. Consumer Product Safety Commission, which  
11 reported for the period 1993 to 1997.

12           We do know that the bulk of the deaths occur  
13 in people's homes, where there are heating systems  
14 that are not safe, or often they use kerosene  
15 heaters.

16           Clearly the predominant problem,  
17 82 percent, is with heaters in homes and in temporary  
18 shelters such as cabins, RVs, campers, tents, or  
19 trailers.

20           The report did not list nursing homes or  
21 personal-care homes in their data, and we were unable  
22 to find any reliable data on carbon monoxide  
23 poisoning in Pennsylvania.

24           With this background, now let's turn to the  
25 current status of regulation of CO in Pennsylvania

1 and elsewhere.

2 Presently, all nursing-home facilities in  
3 Pennsylvania must adhere to the National Fire  
4 Protection Association 101 Life Safety Code  
5 promulgated by the Federal government and already  
6 adopted by the Pennsylvania Department of Health.

7 The Life Safety Code has strict airflow and  
8 ventilation requirements applicable to nursing homes  
9 ensuring that resident air quality is safe.

10 These requirements are specified for  
11 virtually all useable spaces in a nursing facility.  
12 Compliance with the air-change requirement, per the  
13 Life Safety Code, prevents the lethal circumstance of  
14 carbon monoxide poisoning. In addition, the  
15 infrequency with which resident rooms are closed also  
16 prevents the buildup of carbon monoxide gas inside a  
17 room.

18 Carbon monoxide, as we discussed earlier, is  
19 a chemical produced from the incomplete burning of  
20 natural gas such as a unit burning coal, gasoline,  
21 kerosene, oil, propane, or wood. Electric-powered  
22 heating appliances do not produce carbon monoxide.

23 Most nursing homes utilize electricity,  
24 central hot-water systems, or packaged heating and  
25 cooling units to provide heat to their facilities.

1 Electric-powered heating systems pose no threat of  
2 carbon monoxide poisoning, and packaged heating and  
3 cooling units direct gas fumes outside without access  
4 to room areas.

5           Additionally, nursing homes do not rely on  
6 fireplaces with chimneys to heat the facility, nor do  
7 they operate underground garages. These are  
8 potentially other sources of carbon monoxide.

9           We are in the process of gathering additional  
10 data regarding what action, if any, other States have  
11 taken on the topic of carbon monoxide. There appear  
12 to be a few States which have already legislated the  
13 installation of carbon monoxide detectors.

14           For example, Minnesota requires the  
15 installation of carbon monoxide detectors for all  
16 single-family and multifamily dwellings unless the  
17 unit is a State-operated unit or is a multifamily  
18 dwelling that contains minimal or no source of carbon  
19 monoxide. Nursing homes are not treated differently  
20 from any other dwelling.

21           Illinois requires the installation of carbon  
22 monoxide alarms in single or multifamily dwellings  
23 relying on the combustion of fossil fuel for heat,  
24 ventilation, or hot water. Again, this law does not  
25 just apply to nursing homes but to every dwelling.

1           Massachusetts has a law that requires carbon  
2           monoxide detectors for all dwellings that use  
3           fossil-fuel-burning equipment.

4           The Ohio General Assembly has proposed  
5           legislation which would require the installation of  
6           carbon monoxide alarms in single or multifamily  
7           dwellings which have a fossil-fuel-burning heater or  
8           appliance, fireplace, or attached garage. This  
9           legislation has merely been introduced in the House  
10          and has not passed the General Assembly.

11          We will continue to gather data from other  
12          States and pass it to the committee, if you so  
13          desire.

14          It appears, however, that whenever a State  
15          has determined that the threat of carbon monoxide is  
16          sufficient to mandate carbon monoxide detectors, the  
17          legislative body has determined it is a threat for  
18          everyone who occupies a dwelling in the State that  
19          burns fossil fuel, not merely nursing homes or  
20          personal-care facilities.

21          As you all know, I have been an advocate for  
22          the elderly and disabled most of my life. If there  
23          was a demonstrated problem with carbon monoxide in  
24          nursing homes or personal-care homes, I would be the  
25          first to suggest that an effort be made to expand



1 regulatory authority.

2 As an advocate for the elderly and disabled  
3 of Pennsylvania, we believe that the Commonwealth and  
4 the Department of Health and Department of Welfare  
5 have sufficient authority, regulations, and laws in  
6 place which ensure proper air quality to protect the  
7 overall elderly and disabled populations from the  
8 potential threat of carbon monoxide poisoning as well  
9 as other potential hazards.

10 I was speaking to one of the nursing-home  
11 providers in Pennsylvania yesterday, and they told us  
12 the nursing homes are inspected professionally once  
13 every 6 months. To this end, the Department of  
14 Health and the Department of Public Welfare regularly  
15 inspect nursing homes for any and all threats to a  
16 resident's quality of life.

17 As I have already stated, the Department of  
18 Health has adopted the Life Safety Code, a Federal  
19 standard systematically updated to ensure that  
20 facilities do not pose undue risk of harm to its  
21 residents.

22 If there is a real or potential problem with  
23 carbon monoxide on an individual facility basis, they  
24 have the authority to mandate fixing the problem. If  
25 they see a systemic problem, they have the current

1 authority to propose regulations dealing with this  
2 problem.

3 Nursing homes, based on publicly available  
4 data, are already not fully reimbursed for the care  
5 they provide to Medicaid residents based on the  
6 approved costs by DPW. In fact, they lose about  
7 \$12 per day caring for each Medicaid resident.

8 This legislation will simply add new costs  
9 without a proven need or benefit and could divert  
10 limited resources away from patient care. Thus, if  
11 the Legislature were to enact this legislation, it is  
12 important to not make this another unfunded mandate  
13 that takes dollars away from the ongoing patient  
14 care.

15 If after studying the currently available  
16 data on where carbon monoxide poisonings most often  
17 occur, and the Legislature then deems carbon monoxide  
18 poisoning a real problem that should be regulated in  
19 Pennsylvania, then we believe that the Legislature  
20 should require that CO monitors also be installed in  
21 homes, RVs, et cetera, along with the facilities  
22 listed in the bill, as it is those locations where  
23 the largest number of affected individuals appear to  
24 reside.

25 That is the approach that has been taken by

1 several other States. As an absolute minimum, we  
2 recommend that the requirement of a CO detector be  
3 extended to the home of any individual who is  
4 receiving any health or human service paid for with  
5 Commonwealth dollars.

6 Please allow me to shift briefly to a related  
7 subject. We all know the proven benefit of smoke  
8 detectors. They are required in nursing homes and  
9 personal-care homes, and I expect will be rightly  
10 required in assisted-living facilities when they are  
11 licensed.

12 The Philadelphia Fire Department has reported  
13 that there have been virtually no fire deaths in  
14 homes over the last many years with working smoke  
15 detectors. While not the subject of this hearing, I  
16 would suggest that rather than mandate carbon  
17 monoxide monitors for nursing homes, assisted-living  
18 facilities, and personal-care homes, a greater public  
19 good would be to require smoke detectors in the home  
20 of everyone receiving any health or human services  
21 paid for with Commonwealth dollars.

22 In conclusion, given this background of  
23 unproven need or benefit of carbon monoxide monitors  
24 in nursing homes, personal-care homes, or  
25 assisted-living facilities, we cannot support this

1 particular piece of legislation as drafted.

2 We do, however, want to take the step forward  
3 and ask that acute carbon monoxide poisoning, no  
4 matter where it occurs, be a reportable disease in  
5 Pennsylvania.

6 And getting back to what Representative  
7 Hennessey said earlier, the question about good  
8 quality data in Pennsylvania, it's not a reportable  
9 disease in Pennsylvania, and I'm talking about acute  
10 carbon monoxide poisoning. Once we have its data,  
11 then we can understand the epidemiology -- the who,  
12 where, how, et cetera -- of this hazard in  
13 Pennsylvania.

14 Our recommendation is to gather data, let's  
15 look at the problem, let's look at where the problem  
16 is, and then begin to move forward.

17 Thank you for inviting us to testify.

18 CHAIRMAN MUNDY: Mr. McDaid.

19 MR. McDAID: Thank you, Chairman Mundy,  
20 Chairman Hennessey, and distinguished members of the  
21 committee.

22 I would also like to offer PANPHA's  
23 condolences to the families of the Roses and the  
24 Smithsons here today. That is a tragic incident that  
25 you have all had to live through, and hopefully we

1 can all work together to get to a place where we can,  
2 you know, see this to fruition.

3 My name is Russ McDaid. I'm the Vice  
4 President of Public Policy for PANPHA.

5 Let me tell you briefly a little bit about  
6 what PANPHA is and who we represent and then head to  
7 our recommendations, because I suspect, not only in  
8 the spirit of keeping you on time, but based on the  
9 prior testimony from the departments, you may have  
10 some more significant questions of the Building Code  
11 experts who are going to follow Dr. Shapiro and I,  
12 that I'll cut straight to the chase and let you ask  
13 us questions moving forward.

14 PANPHA has had discussions with many of you  
15 on this issue, as you know, and we do take the issue  
16 of carbon monoxide detection in our facilities  
17 extremely seriously.

18 Like the others who have testified here  
19 today, we all seem to have researched the same  
20 studies and looked at the same data, and I think that  
21 that shows us that there is still a lot to learn.

22 And if you read the entirety of my testimony  
23 that I have prepared, you will see that there are  
24 literally probably a half dozen reliable, dependable  
25 studies out there that people are calling on to make

1 these determinations.

2 And, you know, there is a lack of data,  
3 frankly, out there about the conditions, the effects,  
4 the reliability, the sources, and those types of  
5 things. The strongest data is very clearly the  
6 source data where carbon monoxide poisonings occur  
7 and the recent data in the type of devices that  
8 produce that, which Dr. Shapiro mentioned.

9 And you will also find in my testimony, which  
10 leads us to our recommendation, as you heard, I  
11 actually grabbed a more recent study that was buried  
12 someplace on the Internet from the Consumer Product  
13 Safety Commission that shows that now a full  
14 72 percent of deaths annually occur in homes and  
15 another 17 in temporary shelters, that being  
16 classified as RVs, tents, cabins, summer homes, where  
17 they don't have, you know, a fully functional  
18 ventilation system and those types of things.

19 And, you know, that clearly speaks to those  
20 places that are also far more likely to use the types  
21 of heating devices that we know are the single  
22 largest culprits and/or have devices that are on the  
23 lower level of repair and, therefore, may  
24 disproportionately cause carbon monoxide poisoning  
25 and/or death than other areas where there is regular

1    checkup on, you know, that heating and ventilation  
2    system.

3            So if you go to the final page of my  
4    testimony, one might like to know that based on this  
5    information, PANPHA would recommend the following:

6            First, that you not move forward with this  
7    bill until carefully considering the available data  
8    on carbon monoxide poisoning deaths and locations;  
9    the reliability and cost of the "sensor" technology  
10   currently on the market -- and I can't stress that  
11   enough.

12           I am hopeful that the experts coming after us  
13   can give you some thoughts on some of the  
14   reliability, because, you know, there are some  
15   questions on which devices may or may not work.

16           There is also, as I understand it, a shelf  
17   life on some of the devices. Unlike smoke detectors,  
18   their performance may erode over time, making them  
19   less effective, meaning if we go forward with this,  
20   people will have to spend the money to replace them  
21   more frequently if we are truly going to protect  
22   people, and that's a consideration that we also all  
23   need to look at.

24           And additional venues and settings to which  
25   any detector requirement should apply, and we can't

1 stress that enough as well. With, you know,  
2 appreciation for the problem that we are trying to  
3 solve and the three settings that are listed in the  
4 bill, the data that is available shows that while  
5 tragic occurrences, as we heard earlier, can occur in  
6 those settings, that is not where the bulk of carbon  
7 monoxide poisonings and/or deaths occur, and  
8 individuals across the spectrum should need that  
9 protection.

10 We talk about Pennsylvania being a leader,  
11 moving forward and looking at other studies. We  
12 think if we are going to go in this direction, we  
13 need a position as well for that.

14 If after reviewing this available data the  
15 committee believes that the benefits of moving  
16 swiftly to require carbon monoxide detector  
17 installation in various settings outweighs the costs,  
18 then we would urge you to amend the bill, adding the  
19 settings where deaths by carbon monoxide poisoning  
20 occur most frequently -- private residences and the  
21 temporary shelters that I spoke about.

22 That would also include things that you heard  
23 Dr. Shapiro talk about in other State statutes, such  
24 as child-care centers, adult-day centers, even motels  
25 and hotels where we know that this, you know, shows



1 up in the news that it has occurred.

2           And then I would reiterate Dr. Shapiro's  
3 piece that, you know, even if at the end of your  
4 deliberations you find that that is a leap that we  
5 are not going to make at this point, we are all aware  
6 of the efforts to rebalance the long-term-care system  
7 and to serve more individuals out in the home and  
8 community.

9           We see from the data that they are far more  
10 likely to come to this in the home and community than  
11 they are in any facility where routine inspections in  
12 ventilation is occurring. And we would urge you, at  
13 a minimum, to add home and community placements where  
14 individuals are served with State long-term-care  
15 dollars as venues where this might apply, going  
16 forward, you know, presuming we choose to move  
17 forward with House Bill 1952.

18           I would also echo Dr. Shapiro's  
19 recommendation. With all due respect to our friends  
20 from the administrative agencies, I think they are  
21 going to have a monumental task in front of them  
22 trying to gather the data that it is literally going  
23 to be an inspection-by-inspection and  
24 survey-by-survey review, because carbon monoxide  
25 poisoning and deaths are not reportable in

1 Pennsylvania. They are only reportable in 13 of 50  
2 States.

3 And, you know, we would be with you in  
4 requiring that tomorrow. Clearly we need to grab  
5 some information, we need to have data on not only  
6 the causal but where it's occurring and the efficacy  
7 of the detectors to make some sound policy decisions  
8 moving forward.

9 And with that, thank you for allowing us the  
10 opportunity to testify, and we both would be happy to  
11 take any questions you all may have.

12 CHAIRMAN MUNDY: Thank you, gentlemen.  
13 Thank you for your testimony.

14 Representative Watson.

15 REPRESENTATIVE WATSON: I thank both of you  
16 gentlemen.

17 I have read the data when we tried to put  
18 this together, all of those studies that I'm aware  
19 of. I also would suggest that we need to start  
20 somewhere, so with those who perhaps, even if this  
21 rebalancing all occurs, who would be those in our  
22 facilities, perhaps our most compromised in terms of  
23 overall health, which is why they are in a facility  
24 and not still in their homes. The feeling then was  
25 to start from there.

1 I hear what you were saying about home and  
2 community, but at some point, we just have to start  
3 somewhere to do it. But I would look forward to  
4 working with you both then as we move forward.

5 Thank you.

6 DR. SHAPIRO: We would be glad to work with  
7 you also, both of us.

8 CHAIRMAN MUNDY: Do other committee members  
9 have questions?

10 Thank you very much for your testimony.

11 DR. SHAPIRO: You're welcome.

12 MR. McDAID: Thank you.

13 CHAIRMAN MUNDY: Next on our agenda is  
14 Mr. James Franey, President of the Pennsylvania  
15 Association of Building Code Officials.

16 Thank you for appearing.

17 MR. FRANEY: Yes; you are welcome.

18 CHAIRMAN MUNDY: You may begin.

19 MR. FRANEY: Accompanying me today is  
20 Pete Schilling of Commonwealth Code Inspection  
21 Services. Pete is a member of the PABCO Board of  
22 Directors and will testify or will assist me in  
23 answering questions you may have after my brief  
24 testimony here.

25 Honorable Chairman Mundy and Honorable

1 Chairman Hennessey, Honorable members of the House  
2 Committee on Aging and Older Adult Services, good  
3 morning.

4 My name is Jim Franey. I am the owner of  
5 Contractors Inspection Services of Mohnton,  
6 Pennsylvania, a third-party agency certified by the  
7 Department of Labor and Industry under the  
8 regulations of the Uniform Construction Code.

9 I am also the current President of PABCO, the  
10 Pennsylvania Association of Building Code Officials.

11 PABCO is the Pennsylvania State professional  
12 chapter of the International Code Council. A  
13 nonprofit association, PABCO represents almost 1,000  
14 UCC certified code officials in the Commonwealth of  
15 Pennsylvania.

16 Its membership consists of both municipal and  
17 third-party agency officials from urban, suburban,  
18 and rural areas of the Commonwealth. Its membership  
19 represents all geographic regions of the  
20 Commonwealth.

21 PABCO's municipal third-party agency and COG  
22 members serve over 1,750 municipalities throughout  
23 the State.

24 House Bill 1952 would require the  
25 installation of carbon monoxide detectors in

1 residential facilities with care-dependent  
2 individuals, including assisted-living residences,  
3 personal-care homes, and long-term nursing-care  
4 facilities.

5 The bill would also require DEP to test and  
6 approve carbon monoxide detectors as complying the  
7 UL 2034 or an equivalent standard and certify that  
8 the detectors bear the label of a nationally  
9 recognized testing laboratory such as UL.

10 The bill would require DPW, for  
11 assisted-living residences and personal-care homes,  
12 and the DOH, for long-term nursing-care facilities,  
13 to establish exemptions if no potential carbon  
14 monoxide hazard exists for the regulated facility.

15 It would also require DPW and DOH to  
16 determine the required number and placement of carbon  
17 monoxide detectors for each regulated facility.

18 The very heart of PABCO's mission is to  
19 protect the life and safety of building occupants  
20 through building and related codes. Our mission is  
21 consistent in this respect with the mission of the  
22 International Code Council, or referred to as the  
23 ICC.

24 And yet the ICC Code Change Committee that  
25 has oversight for proposals pertaining to carbon

1 monoxide detectors has once again unanimously  
2 rejected a proposal to require CO detectors in  
3 dwelling units. This rejection occurred at the end  
4 of February and was in regard to proposals to require  
5 CO detectors effective with the 2009 adoption of the  
6 International codes.

7           The rationale for the rejection has remained  
8 fairly consistent over the years. The manufacturers  
9 of the devices have been unable to satisfy the ICC  
10 technical committee that the devices are reasonably  
11 reliable.

12           Because of the lack of confidence in the  
13 reliability, the ICC is not willing to require their  
14 installation for fear that homeowners and others will  
15 place an undeserved amount of trust in the detectors  
16 working the way in which they are intended.

17           In addition to historical problems with their  
18 reliability, proper installation, including location,  
19 is so critical to their effectiveness.

20           PABCO continues to take the position that  
21 mandated installation of CO detectors is a  
22 scientific, technical building code-related safety  
23 issue that belongs under the domain and watchful eyes  
24 of the ICC Code Change Process.

25           If and when the ICC general assembly approves

1 a mandated use of CO detectors, PABCO will be the  
2 first one pushing to make sure that everyone knows  
3 the requirement and how to accomplish it.

4 In the meantime, this bill and others like  
5 it, while well intended, should defer to the codes  
6 and standards that have been adopted under the  
7 Pennsylvania Construction Code Act, Act 45 of 1999,  
8 as amended, and the body that approved the changes to  
9 them, which is the International Code Council.

10 This bill would create a false sense of  
11 security because of the unreliability of those  
12 detectors.

13 Furthermore, the bill wants to allow DPW and  
14 DOH to determine how many detectors are needed and  
15 where they should be placed, whereas the  
16 manufacturer's installation instructions that are  
17 required for all detectors that comply with the  
18 UL 2034 standard already address this issue, and any  
19 deviation from the manufacturer's installation  
20 instructions basically voids the warranties that  
21 accompany the detectors and contribute even more to  
22 their inconsistent reliability.

23 The UL standard for these detectors is based  
24 on placement in single-family residences, not in  
25 group or congregate-living facilities.

1           The UL standard requires that these detectors  
2 must be checked monthly, and the backup batteries  
3 must be replaced annually. This places a huge  
4 responsibility and reliability on the owners and  
5 operators of these regulated facilities, particularly  
6 in light of the unreliability of the detectors.

7           Given the prescribed role in this bill for  
8 DEP, DOH, and DPW, I would also be concerned with the  
9 potential liability that might rest with these three  
10 State agencies should their involvement in regulating  
11 carbon monoxide detectors in these facilities  
12 unfortunately go awry and contribute to injuries or  
13 fatalities.

14           And finally, requiring DPW and DOH to  
15 determine when a potential carbon monoxide hazard  
16 exists and when it does not exist goes above and  
17 beyond the normal scope of operations of those two  
18 agencies.

19           Evaluating the presence or absence of  
20 fossil-fuel-burning equipment and appliances, which  
21 is the most common source of carbon monoxide in  
22 dwelling units when properly installed and  
23 maintained, is not always as simple and easy as it  
24 appears.

25           In addition, more and more modern



1 fossil-fuel-burning appliances and the equipment have  
2 safety features and methods of installation that  
3 either eliminate or dramatically reduce the potential  
4 for dangerous levels of carbon monoxide from forming  
5 inside the structure.

6 DPW and DOH do not have the experience or the  
7 personnel who are trained in identifying appliances  
8 and equipment that render the structure to be at risk  
9 for carbon monoxide accumulations and those which are  
10 not at risk.

11 Hopefully you will see that there are many  
12 apparent and hidden pitfalls in HB 1952. Carbon  
13 monoxide detectors and their required installation  
14 should be an issue that is addressed by the building  
15 and mechanical codes we have adopted for statewide  
16 enforcement in Pennsylvania.

17 And again, if and when the International Code  
18 Council becomes convinced through testing and  
19 documentation of the reliability of these detectors,  
20 their installation will undoubtedly become required  
21 by our statewide code, at which point, PABCO will  
22 step to the forefront to assure that all code  
23 officials are aware of their required installation  
24 and to enforce those requirements.

25 Thank you for the opportunity to be with you

1 this morning. Pete and I will now entertain any  
2 questions you might have for us.

3 CHAIRMAN MUNDY: Thank you.

4 Representative Watson.

5 REPRESENTATIVE WATSON: Thank you. Good  
6 morning, gentlemen.

7 MR. FRANEY: Good morning.

8 MR. SCHILLING: Good morning.

9 REPRESENTATIVE WATSON: Repeatedly, you  
10 referred to the fact that these detectors are  
11 unreliable, and can you define in what ways, specific  
12 ways, they are unreliable?

13 I guess I'm fascinated as to how indeed then  
14 these manufacturers sell them. And the packagings I  
15 have read going to, the ones that are sold through a  
16 Home Depot, Lowe's, a hardware store, whatever, if  
17 they are unreliable, how is it that they are sold  
18 across the country, and indeed are these companies  
19 that sell them then liable because they are selling  
20 something that is unreliable and may or may not  
21 work?

22 MR. SCHILLING: Well, the studies that I have  
23 seen that are related to the ICC, the International  
24 Code Council, considerations of adopting it into code  
25 were mainly done by UL and other agencies---

1           CHAIRMAN MUNDY: Is your microphone on, sir?

2           MR. FRANEY: They are going in and out.

3           CHAIRMAN MUNDY: Could you move it a little  
4 closer to your mouth, then.

5           MR. SCHILLING: Studies that we have looked  
6 at that were--- Can you hear me now?

7           CHAIRMAN MUNDY: Yes; that is good.

8           MR. SCHILLING: The ICC Code Council, when  
9 they did their report on the CTC Committee to study  
10 carbon monoxide alarms and incorporate that into the  
11 building code mainly relied on the inability of  
12 the industry to provide evidence that they were  
13 reliable.

14           UL did some studies that indicated that there  
15 was a failure rate, and some failed to alarm and some  
16 alarmed at 20 levels. They have been some other  
17 concerns that carbon monoxide, at almost 50 parts per  
18 million over a period of time, can be harmful and  
19 that these alarms will not even alarm below 70 parts  
20 per million.

21           The basic position of the CTC Committee is  
22 that until they can be proved to be reliable and  
23 until somebody can come up with some sort of reliable  
24 standard for installation and placement of these,  
25 that they are not going to adopt it into the code,

1 and that is our consideration, that we want to make  
2 sure it is a reliable product and we need a standard  
3 to work with.

4           When we consider fire alarms, they are a  
5 proven standard. They have been tested by  
6 third-party agencies to be reliable, and in the  
7 residential code, they contain standards for  
8 placement for commercial buildings. NFPA 72 contains  
9 design standards where a registered design  
10 professional can design the system and indicate  
11 proper placement of them.

12           REPRESENTATIVE WATSON: Thank you.

13           We could go on and on, because I would like  
14 to know about the smoke detectors and what you think,  
15 and they are supposed to be so reliable, and how and  
16 why are they when they don't work, and that's from my  
17 little fire department. But we'll let that go for  
18 now.

19           Thank you.

20           MR. SCHILLING: Thank you.

21           CHAIRMAN MUNDY: Representative Hennessey.

22           REPRESENTATIVE HENNESSEY: Thank you,  
23 Phyllis.

24           Gentlemen, I'm having a little trouble with  
25 the unreliability tag that you are putting on these

1 carbon monoxide detectors.

2           If they are properly installed, I mean, a lot  
3 of them, or several, just plug into the electric  
4 socket and it turns on. The lights go on even if the  
5 thing is supposedly working. Do they work forever  
6 when they are plugged in, or do they simply stop  
7 functioning after a number of years and not give you  
8 any reading or perhaps give a false reading?

9           I think most of the time it gives you the  
10 zero reading, the ones that I'm familiar with, and I  
11 am relying on the fact that it says zero when I see  
12 it.

13           Is that something that after 5 years or every  
14 10 or whatever the shelf life might be, is that  
15 simply an unreliable reading? Is that what you are  
16 telling us? Or is it only unreliable if the battery  
17 fails, you know, and it hasn't been changed, or if  
18 the electricity in your neighborhood goes down  
19 because there has been an accident someplace?

20           MR. SCHILLING: Underwriters Laboratories  
21 still has that under study. There are some concerns  
22 that they raised, reliability and long-term  
23 reliability to function after repeated exposures to  
24 low-level carbon monoxide.

25           And also, the majority of the CO2 detectors

1 right now are battery operated, so it relies on  
2 somebody being able to go change the batteries  
3 annually and install them correctly.

4 REPRESENTATIVE HENNESSEY: Well, again, is  
5 that what you are saying is unreliable, the fact that  
6 some human might not change the batteries, or do  
7 these things simply stop functioning after a period  
8 of time?

9 Because, I mean, pressure gauges in the  
10 industry, we expect them to last, I think, forever.  
11 If they suddenly start to fail, then we'll replace  
12 them with a new gauge and then we move on. You know,  
13 we don't stop the whole process because the gauges  
14 aren't perfect.

15 You know, what I'm looking for is to see  
16 whether or not there are some interim steps you can  
17 take, given the available technology today, so that  
18 we don't let everything go down the tubes while we  
19 are waiting for the perfect solution, which may, you  
20 know, we are hearing from the prior testifiers that  
21 that might not even be up for consideration or  
22 reconsideration until 2013.

23 MR. SCHILLING: Studies that I read didn't go  
24 into detail as to whether they failed because of age  
25 or because of a defect of the manufacturer.

1           REPRESENTATIVE HENNESSEY:  The studies don't  
2 tell you that?

3           MR. SCHILLING:  No.  Like the UL report I  
4 read simply said that they tested 70 detectors, and  
5 there were a number of them that failed to alarm at  
6 the proper levels.  There were a number of them that  
7 alarmed below the proper levels.

8           REPRESENTATIVE HENNESSEY:  You had mentioned,  
9 I think, that the proper level was 70 parts per  
10 million?

11          MR. SCHILLING:  Yes.  That is according to  
12 the UL standard.  It is supposed to alarm at 70 parts  
13 per million after 1 hour of exposure.

14          REPRESENTATIVE HENNESSEY:  Okay, because one  
15 of the earlier testifiers, one of the ladies, had  
16 said that they thought the alarm was supposed to go  
17 off at 35 parts per million.

18          MR. FRANEY:  The OSHA standard, the OSHA  
19 standard sets a maximum exposure in the workplace of  
20 35 parts per million over an 8-hour period.  So the  
21 35 standard was an OSHA standard.

22          MR. SCHILLING:  The UL standard is supposed  
23 to alarm at 30 parts per million after 30 days of  
24 exposure.

25          REPRESENTATIVE HENNESSEY:  I'm sorry; say

1 that again? That's when the alarm should go off?

2 Are you sure it isn't the battery or  
3 something? For 30 days, if it stays above 30 parts  
4 per million, the alarm will finally go off?

5 MR. SCHILLING: Yes. UL Standard 2034, with  
6 the effective date of October 1, 1998, requires that  
7 that detector go off at 30 parts per million after  
8 30 days.

9 MR. FRANEY: And 70 parts per million after  
10 1 hour.

11 MR. SCHILLING: One of the concerns of the  
12 ICC Committee is that it is believed that prolonged  
13 exposure to 50 parts per million will cause harm to  
14 human beings and that these UL alarms aren't even  
15 designed to go off at 50 parts per million. Once  
16 they exceed 30 parts per million, you will be  
17 exposed, and the alarm will finally go off after  
18 30 days.

19 REPRESENTATIVE HENNESSEY: Okay. I will try  
20 to understand what that all means if I really think  
21 about it for awhile.

22 Let me just revisit a question that  
23 Representative Vulakovich asked earlier in terms of  
24 putting sensors in the areas of the boilers and  
25 hot-water heaters, where we probably would assume



1 that 95 percent of the problem comes from.

2 In my home, I have hot-air heat, and then  
3 people came in with this air-conditioning unit and  
4 put in, I guess they put in the humidifier, and they  
5 put sensors right in the areas, you know, at the  
6 furnace so they could monitor what the humidity level  
7 was. And in my case, it was too dry. You are just  
8 supposed to mist, and it adds water, it adds moisture  
9 into the air.

10 Can't we find a simple solution here and  
11 simply put the detectors at the source of the carbon  
12 monoxide and solve 90 percent of the problem by doing  
13 that, by either hard-wiring it in or plugging it in  
14 and having a battery backup?

15 I mean, again, if we wait for the perfect  
16 solution, we are not going to do anything for years  
17 and years and years. Isn't there some sort of  
18 reasonable thing that we could require that says,  
19 this is practical, it is economically feasible for  
20 the homes, and it is a relatively simple solution?

21 They might not cover every problem, but it  
22 will cover most of the problems. And, you know, we  
23 can forget about all this sense of false reliability,  
24 the false sense of reliability and things. Those  
25 things, to me, are things that are all red herrings,

1 you know, and they put off any kind of action at all  
2 because we haven't reached perfection. And we are  
3 not going to reach perfection, so we'll never, ever  
4 take any steps at all to get closer to it, because it  
5 is not an attainable goal at the present time.

6 That just seems to me to be an unreasonable  
7 attitude. I mean, there have to be intermediate  
8 steps that people can take and that we can require  
9 them to take that will solve 90 percent of this  
10 problem.

11 MR. SCHILLING: Representative Hennessey, the  
12 EPA says that we might want to consider buying a  
13 carbon monoxide detector, but it is not a replacement  
14 for the proper use and maintenance in equipment.  
15 There is absolutely nothing that beats the proper  
16 maintenance, the yearly maintenance of that  
17 equipment.

18 As far as putting it into ducts, I know of  
19 nobody that creates a UL-licensed product for that,  
20 and perhaps it is on the market, but I'm not aware of  
21 it.

22 As far as the placement, that goes according  
23 to the manufacturer's instructions, which vary,  
24 because there is no national standard on it.

25 MR. FRANEY: And the placement of it is

1 actually one of the biggest causes of the  
2 unreliability of the products, is the proper  
3 placement.

4 MR. SCHILLING: If they are placed too close  
5 to the appliance, you might get false readings. If  
6 they are placed too far, you might have a problem in  
7 not picking up the problem.

8 CHAIRMAN MUNDY: When you say appliance---

9 MR. SCHILLING: Fuel-burning appliances.

10 CHAIRMAN MUNDY: You mean like furnaces.

11 MR. SCHILLING: Furnaces.

12 CHAIRMAN MUNDY: Or air conditioners,  
13 hot-water heaters.

14 MR. SCHILLING: Yes, anything that uses  
15 combustion to produce energy.

16 CHAIRMAN MUNDY: What is in the building code  
17 with regard to inspection of those kinds of devices?  
18 What is the recommendation? How often should a  
19 furnace, an air conditioner, something like that, be  
20 inspected for false or deficiencies that might result  
21 in higher carbon monoxide levels?

22 MR. SCHILLING: The Uniform Construction Code  
23 only covers the initial installation of the  
24 appliance. Any maintenance on it is to be covered by  
25 the manufacturer's instructions and warranty.

1           CHAIRMAN MUNDY: I see.

2           MR. FRANEY: And I would also like to say  
3 that the utility companies, UGI, when they go into a  
4 facility to do repairs and stuff, they have a yellow  
5 flag or a yellow tag or a red tag.

6           REPRESENTATIVE SHIMKUS: It was a red tag,  
7 and they shut down the entire heating system until  
8 they installed spill switches, which basically  
9 detected a backflow from the chimney, where you  
10 basically said the chimney was blocked and then the  
11 furnace shut down.

12           And they also had detectors that were  
13 installed that said there was, you know, some change  
14 in the heating process and there could be the threat  
15 of carbon monoxide, and it shut it down. And until I  
16 had those, I was not allowed to heat my home.

17           MR. FRANEY: I think we could work out  
18 90 percent of the problems, and, you know, from  
19 PABCO's standpoint, we could certainly support  
20 mandatory inspections of that equipment.

21           You would want to get to that 90-percent  
22 level, I believe, if you were doing it every 6 months  
23 or a year and have a certificate that it was  
24 completed and sent in to the regulating agency. I  
25 really believe that would get you to a point where,

1 you know, you would want to be.

2 CHAIRMAN MUNDY: And we would have to make  
3 sure that the inspection was done by a reliable  
4 contractor.

5 MR. FRANEY: Yes. And not only of the  
6 appliance itself, but flues and chimneys and venting  
7 and that it was getting the proper combustion air.

8 CHAIRMAN MUNDY: That actually sounds to me  
9 like a much more simple approach to this problem than  
10 requiring detectors that appear to be unreliable for  
11 a variety of reasons.

12 So that would kind of be my recommendation,  
13 and I'll talk to Kathy about it. But, I mean, thank  
14 you very much for your testimony.

15 This is unusual in a hearing, and I  
16 apologize, but if you gentlemen could just stay where  
17 you are for a moment, because there may be more  
18 questions.

19 MR. FRANEY: Sure.

20 CHAIRMAN MUNDY: But I wanted to ask the  
21 family, if you could come forward again, the two  
22 lades, and maybe just tell me, in the case of the  
23 facility where your family members were, your mother  
24 and your aunt, was there any information about when  
25 the last time the furnace was inspected or whatever

1 caused this carbon monoxide buildup, was there any --  
2 what can you provide us as to what the cause of the  
3 incident was?

4 MS. ROSE: We were not given any explanation  
5 from the facility, but the information we got was  
6 from the DPW report.

7 And also of interest, there was a company on  
8 site that day doing some work on the air-conditioning  
9 system. In the DPW report that we got, probably at  
10 the end of June, this facility did internal  
11 inspections on their boilers. They did not have an  
12 external company come in to do the actual  
13 inspections.

14 Now, there was an issue with the  
15 air-conditioning system, so they did have an external  
16 company coming in. And Bill, my husband, the boiler  
17 was extremely faulty, is that right?

18 MR. WILLIAM ROSE: Yes. I---

19 CHAIRMAN MUNDY: Could you identify yourself  
20 for the stenographer?

21 MR. WILLIAM ROSE: Mary Ann's husband,  
22 William Rose.

23 MR. ROSE: Of course, I experienced what  
24 Mary Ann did, and it was something that I would hope  
25 this committee can help prevent from occurring in the

1 future.

2 But we did see some reports from the main  
3 company, the national company that I'm sure these  
4 gentlemen would recognize, and I don't know if I can  
5 say their names or not, but they did some work on the  
6 HVAC system and found some, as I recall, some not  
7 very well designed exhaust systems, and there was a  
8 problem, I believe, with the full burning of the  
9 fuel, or the lack thereof.

10 I'm certainly not an expert in that area, so  
11 I can't give you the technical details, but there  
12 were issues with their HVAC system. And there was a  
13 lack of documentation, if they get them  
14 systematically inspected on a routine basis, so that  
15 was a contributor.

16 And frankly, in listening to all the  
17 testimony, it does seem like there is a two-pronged  
18 problem that starts with a faulty system perhaps, and  
19 that's one area of concern.

20 And the carbon monoxide detectors, even  
21 though they may not be perfect, I tend to agree with  
22 Representative Hennessey's comments about, what can  
23 we do in a commonsense way? It might not be perfect,  
24 but it's a step in the right direction.

25 So maybe the thrust should be two-pronged:

1 first of all, requiring inspections of the HVAC  
2 systems by accredited experts, if you will; and  
3 secondly, at least the consideration of some sort of  
4 a commonsense placement of carbon monoxide detectors.

5 CHAIRMAN MUNDY: Thank you.

6 MS. ROSE: To quote the report from the  
7 company who was on site that day, this boiler was  
8 "screaming," and it took them days to fix the boiler.  
9 They had to move everybody out of that  
10 assisted-living center into other areas because it  
11 was not safe for anybody to be in that area.

12 And as I said in my testimony, a lot of these  
13 facilities in the State of Pennsylvania are older  
14 facilities and may have older heating systems, so I  
15 agree with my husband. We have to do something to  
16 accentuate the safety for our elderly Pennsylvanians.

17 CHAIRMAN MUNDY: Thank you.

18 MS. SMITHSON: I would just like to add a few  
19 remarks.

20 As you well know -- and you heard my  
21 testimony here this morning -- one of the important  
22 aspects is that when we send our loved ones to a  
23 facility because of their illnesses, we do go to bed  
24 at night hoping and believing that they will care for  
25 them.



1           And when we receive phone calls that there  
2 isn't proper care to them and a devastational effect  
3 such as what has happened to my aunt and uncle  
4 occurs, it is very difficult to understand  
5 discussions today talking about building codes and  
6 issues that will not be raised until the year 2013.  
7 We are here today, May 6, 2008.

8           My father is sitting in back of me, as I  
9 stated before, who is going to turn 87 next month,  
10 and fortunately his health continues, even through  
11 the small mini-stroke that he incurred.

12           But if I ever have to put him into a  
13 facility, I want to know that he is well taken care  
14 of and that particularly the issue of carbon monoxide  
15 would not seep into the facility where he would be  
16 located at.

17           It is very devastating to us. We realize  
18 that the builders that are here, all of those, they  
19 have certainly been working on so many things, the  
20 municipalities. I also, too, as a former township  
21 supervisor, I also know what regulations are like in  
22 government. And also I know, of course as I  
23 testified, from the court cases what that is like.

24           So this committee really has a challenge  
25 ahead of them, and I once again applaud Kathy Watson

1 and all of you for taking the time to really look at  
2 this issue. It is a small step that we are going to  
3 take, but I think it is an important one to save  
4 lives.

5 Thank you.

6 CHAIRMAN MUNDY: Thank you.

7 You may take your seats.

8 Gentlemen, we have existing facilities that  
9 are older and have older furnaces, older  
10 air-conditioning units, older duct work, and then  
11 obviously new construction that wouldn't be -- I  
12 mean, the building code, I am sure, is applied to any  
13 new facility.

14 But what can we do about these older  
15 facilities? What do the building codes require?  
16 Should we require that older facilities meet some  
17 kind of a standard going forward?

18 MR. SCHILLING: A number of municipalities  
19 throughout the State, we perform inspections for  
20 property maintenance codes. That's the only way that  
21 we can address issues like that. And toward the fall  
22 heating season or yearly, depending on what the  
23 municipality requires, we go and do inspections, and  
24 we pay special attention to the heating equipment and  
25 the venting.

1           But that's a choice of the individual  
2 municipality. For example, one borough we work in,  
3 any rental units and apartments, any commercial  
4 buildings, are all licensed and inspected. Depending  
5 on the amount of people in there, it could be every  
6 year or every 2 years.

7           So a remedial program like that would have to  
8 be above and beyond the building code or adopted into  
9 the building code. But that's the only way that we  
10 would have to go in. I mean, the municipality has to  
11 choose to deal with making sure that the citizens in  
12 assisted-living facilities, for example, or apartment  
13 buildings or any other commercial building are safe,  
14 and their safety is insured through the proper  
15 maintenance of equipment.

16           CHAIRMAN MUNDY: Okay.

17           Other questions?

18           REPRESENTATIVE HENNESSEY: Just one other  
19 thing, to follow up.

20           There is nothing in the codes that prevents  
21 any facility from going above and beyond the codes.  
22 If they wanted to, for example, they could, you know,  
23 hard-wire their entire facility with carbon monoxide  
24 detectors and then advertise that they have taken  
25 that step as an additional protection for their

1 residents, with the hope that somehow that will give  
2 them a marketing advantage over someone else.

3 So, I mean, there is nothing in the codes  
4 that specifically says that you must comply to this  
5 level and go no further or take no other steps,  
6 right?

7 MR. SCHILLING: No. The codes are a minimum  
8 set of standards, and there is nothing in there that  
9 prohibits you from exceeding them.

10 REPRESENTATIVE HENNESSEY: Okay. Thank you.

11 CHAIRMAN MUNDY: Well, it looks like the  
12 committee has its work cut out for it. We certainly  
13 will continue to look at this issue, take everyone's  
14 concerns into consideration, and try to come to some  
15 resolution so that the wishes of these families, that  
16 this never happens to anyone else, be done.

17 Thank you very much.

18 MR. FRANEY: Thank you.

19 MR. SCHILLING: Thank you.

20

21 (The hearing concluded at 10:50 a.m.)

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I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the within proceedings and that this is a correct transcript of the same.

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Jean M. Davis, Reporter  
Notary Public